

fees can be rated, regulated and established by act of Assembly only.' (z) This law was re-enacted; (a) and with some slight modifications again re-enacted into that law, the greater part of which still remains. (b) Two of the sections of the last of these acts are merely corresponding provisions of the early legislative enactments of the Republic upon the subject of poundage fees. The Provincial act of Assembly allowed fees to sheriffs upon executions similar to poundage fees; (c) but it is perfectly evident, from the language of the enactments of the Republic, that their provisions were taken from the English statutes of 1587 and 1716. And it is also remarkable, that all the acts of Assembly of Maryland, like the English statutes, have left it uncertain whether, in general, the plaintiff or the defendant was to be held liable for the poundage fees. A late act of Assembly has made some alterations as to the amount of these fees in suits at common law; but has not cleared away the obscurity of the previous laws upon the subject. (d)

It is certain, that upon the acts of Assembly a sheriff may maintain an action at law to recover his poundage fees. And it has been held, that the act of Assembly shews, that the *defendant* is liable for the poundage fees; that there is no instance of the plaintiff's receiving the poundage fees from the defendant; and that upon a *feri facias* if goods are taken; and the debt is compromised, the sheriff can sell to the amount of the poundage fees; or that although he cannot detain the defendant in custody after he has paid the debt and costs; yet he may compel him to pay the poundage fees in the same manner he can any other fees. (e) It would seem, from what has been said in this case, to have been held to be a general rule, that the defendant was in all cases liable; yet, in a previous case, the defendant's liability appears to have been rested, in some degree, upon his promise to pay. (f) And in another case it appears, that the sheriff brought an action of *assumpsit* against the plaintiff, who had sued out an attachment,

---

(z) October, 1777, ch. 10; Declar. Rights, art. 12; 1650, ch. 25.—(a) October, 1778, ch. 17.—(b) November, 1779, ch. 25.—(c) 1763, ch. 18, s. 94.—(d) The act of Assembly authorizing the appointment of a messenger of this court, directs that his fees shall be paid by the party against whom the process issues.—1785, ch. 72, s. 32. And the same act which gives the Chancellor authority to issue a *feri facias* (section 25,) in the direction that 'upon which there shall be the same proceedings as at law,' seems to be the only authority for charging poundage fees for levying a *feri facias* from Chancery.—(e) November, 1779, ch. 25, s. 4 and 5; *Howard v. The Levy Court*, 1 H. & J. 566.—(f) *Stewart v. Dorsey*, 3 H. & McH. 401.